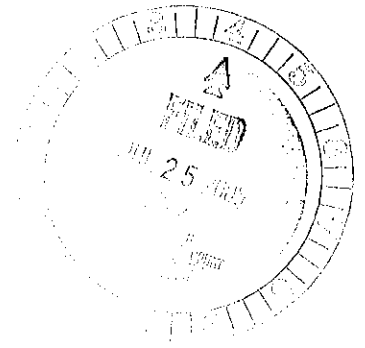


**In the
Indiana Supreme Court**



IN THE MATTER OF)
)
THE APPROVAL OF)
)
AMENDED ELECTRONIC FILING) **Case No.**
)
RULES FOR THE ST. JOSEPH)
)
PROBATE COURT)

**ORDER APPROVING AMENDED ELECTRONIC FILING
RULES FOR ST. JOSEPH PROBATE COURT**

The presiding judge of the St. Joseph Probate Court has requested the approval of amended electronic filing rules for that court.

In 2001, the St. Joseph Probate Court requested permission to begin a pilot project to test electronic case filing in that court using the probate court's internal case management system. The pilot project approved by this Court in 2001 permitted the St. Joseph Probate Court to accept documents submitted electronically, as well as provide electronic service to attorneys who voluntarily agreed to participate in the pilot project. The presiding judge of the St. Joseph Probate Court now seeks to amend the electronic filing rules to make electronic filing of documents mandatory, as indicated on Attachment A.

We find that making electronic filing mandatory provides for efficiencies both in processing cases as well as in maintaining court records electronically. We further find that proposed amendment to the St. Joseph Probate Court Electronic Filing Rules attached hereto as Attachment A are appropriate and should be made effective January 1, 2006, as requested by that court.

IT IS, THEREFORE, ORDERED that pursuant to Ind. Trial Rule 81(D), the local rules attached hereto as Attachment A shall be posted on the Internet and made available for public comment. Thereafter, they shall become effective as indicated, on January 1, 2006.

The Clerk of this Court is directed to forward a certified copy of this order to the Honorable Peter J. Nemeth, presiding judge of the St. Joseph Probate Court; and to the clerk of the St. Joseph Probate Court for entry in the Record of Judgments and Orders and to be posted publicly, and, pursuant to T.R. 81, to the Indiana Supreme Court Division of State Court Administration.

DONE at Indianapolis, Indiana this 25th day of July, 2005.

Randall T. Shepard
Randall T. Shepard
Chief Justice of Indiana

Attachment A

ST. JOSEPH PROBATE COURT

LOCAL RULES FOR ELECTRONIC FILING

1. **PURPOSE**

The St. Joseph Probate Court, with the approval of the Supreme Court of Indiana pursuant to TR 77, is attempting to enter the age of electronics, and sets forth these local rules of procedure to assist the public, the bar and the court in implementing electronic filing and computer case management for the Probate Court.

2. **AUTHORITY**

The following rules are hereby adopted and promulgated by the Judge of the St. Joseph Probate Court pursuant to TR 81 of the Indiana Rules of Trial Procedure.

3. **SCOPE**

These rules shall apply to all new cases filed with the court and all old cases already filed with the court. Old cases will not be required to convert to the computer system until some activity occurs in the case. Effective January 1, 2006, all documents (other than those specifically excepted by the Court) shall be filed electronically in all cases.

4. **CONTROL**

If any local rule shall conflict with, or be inconsistent with the Indiana Rules of Trial Procedure, the latter shall control.

5. **CASE MANAGEMENT SYSTEM**

The Court is utilizing a computer case management system known as "QUEST." A filing in *QUEST* or a *QUEST* filing is a filing in the Court's computer system.

6. **ELECTRONIC COURT FILES**

Court files kept electronically shall be available for inspection by the public and the bar except for those files which are deemed confidential by statute or court order.

7. **ACCESS**

In order to access court files electronically, a person must;

- a. Obtain a unique password and user identification; and
- b. Execute a user agreement with the Court.

Access shall be free of charge for parties or litigants claiming indigency, and provisions will be made to ensure access to the system by disabled or self-represented parties or litigants. The Court will provide assistance and/or instruction to individuals utilizing the electronic filing system.

8. **ELECTRONIC FILING OF PLEADINGS**

A. ***New Cases***

Prior to creating a new case in the court computer system ("QUEST") a party must obtain a cause number from the Clerk of the Court. The cause number may be obtained upon submission of an appearance form and payment of the filing fee to the Clerk [or upon presentation to the Clerk of a court order waiving the filing fee]. Issuance of a cause number does not constitute a "filing" and will not toll any statute of limitations or other time limitation.

In order to create a new case in the court computer system (QUEST), a person must have a password and user identification granting access to the system.

An action must be commenced in conformity with Trial Rule 3 and pursuant to Trial Rules 4 through 4.17 of the Indiana Rules of Trial Procedure.

B. ***Existing Cases***

The CCS and pleadings of any existing case may be viewed on the QUEST system by use of a valid password. This does not apply to cases which are confidential by virtue of the law or court order.

To electronically file a pleading in QUEST, one must first complete an appearance form and file it with the clerk. Upon accepting the appearance form filing, the Clerk will make that case accessible for the filing of pleadings by the person who has made the appearance.

Whenever an attorney withdraws his appearance in a case, his accessibility to that case for the filing of pleadings will be removed.

C. ***Time of Filing***

Documents may be filed through an E-filing system at any time that the Clerk's office is open to receive the filing or at such other times as may be designated by the Clerk and posted publicly. Documents filed through the E-filing system are deemed filed when received by the Clerk's office, except that Documents received at times that the

Clerk's office is closed shall be deemed filed the next regular time when the Clerk's office is open for filing. The time stamp issued by the E-filing system shall be presumed to be the time the Document is received by the Clerk.

D. Notice of Filing of Pleading (Manner of Service)

In addition to the usual ways of serving parties of record pursuant to TR 5, service may be made by *QUEST* e-mail on those parties of record or their attorneys who are current users of the *QUEST* system. Said notice shall indicate the name of the pleading filed, the date it was filed, and any hearing date thereon, if applicable. The notified party or attorney may then access the pleading through the *QUEST* system.

The Clerk of the Probate Court shall maintain a list of current users of the *QUEST* System.

9. PASSWORD

Access to the court case management system ("*QUEST*") may occur by obtaining the password and user name through a user agreement with the Court.

Each person is responsible for the use of his password.

No person shall knowingly utilize or cause another person to utilize the password of another without permission of the holder of the password or in violation of these rules.

No attorney shall knowingly permit or cause to permit his user name and password to be utilized by anyone other than an employee of his law firm.

10. SIGNING OF DOCUMENTS

Documents filed through the E-filing system by use of a valid user name and password are presumed to have been signed and authorized by the User to whom that user name and password have been issued.

11. SATISFACTION OF SIGNATURE REQUIREMENTS

- a. Where an attorney's signature is required on a pleading, the *QUEST* imprint of the attorney's name on the pleading will satisfy said requirement.
- b. Where a person's signature is required on a verified pleading or document, the *QUEST* imprint of the name will satisfy the requirement; however, the attorney is required to maintain an original, signed paper copy in his office.
- c. A pro se litigant is required to file a signed paper copy with the clerk.